

EXHIBIT 1

1 David Davis and Page Gearhart-Davis
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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT FOR

THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

8 David Davis and Page Gearhart-Davis
9 PRO-SE,

Case No.: C 07-03365 EDL

FIRST AMENDED COMPLAINT

10 Plaintiff(s),

11 vs.

12 Clearlake Police Department,

13 Defendant(s)
14

15 Plaintiff David Davis and Page Gearhart- Davis for its Complaint alleges as
16 follows:

17 JURISDICTION

18 The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as
19 this action arises under the laws of the United States Constitution.

20 VENUE

21 Venue is appropriate in this court because both the plaintiffs and the
22 defendants reside in this district, and the acts and omissions giving rise to
23 this lawsuit occurred in this district.

24 ALLEGATIONS

25 1. On 8-2-06 while David Davis and Page Gearhart-Davis where pumping gas into
26

1 their vehicle they were approached by two officers who's names are Officer
2 Miller and Sgt. Celli. David Davis was asked if the vehicle was his, if he
3 had drivers license, registration, and proof of insurance. After David Davis
4 provided the officers with the appropriate information (Exhibit A [Mercury
5 Cougar was sold so David Davis no longer has the registration and
6 insurance]), he asked the officers if they usually approached people while
they pump gas into their cars. Officer Miller stated to David Davis "We
8 don't like your kind", as Sgt. Celli began looking into David Davis vehicle.
9 David Davis was issued a ticket for no registration and a defective
10 windshield (Exhibit B), which later was dismissed in court (Exhibit C).

11 2. The following day David Davis and Page Gearhart-Davis went down to the
12 police station to file a complaint against Officer Miller and Sgt. Celli for
13 racial profiling, harassment, and racial statements. The officer in charge
14 of the day was Capt. Larson, who stated he would speak to his officers about
15 the matter and there was no need for David Davis and Page Gearhart-Davis to
16 file a complaint against Sgt. Celli and Officer Miller.

17 3. Later that same day on the same shift from the night before, David Davis
18 and Page Gearhart-Davis were pulled over again alleging they had ran a stop
19 sign, made a turn without signaling, and having an obstacle blocking the
20 license plate, which later in court the officer did not know what the
21 obstacle was. As Officer Hobbs and Officer Hardisty approached the vehicle,
22 Officer Hobbs instantly asked David Davis if he had an attitude. David Davis
23 did not answer him. Then Officer Hobbs asked David Davis why he did not have
24 a seat belt on. David Davis said he forgot. Officer Hobbs then asked David
25 Davis for some identification. David Davis told him all he had was a DMV
26 print out of his Interim Drivers License (Exhibit A), since his license was

1 recently renewed. In Officer Hobbs' report (Exhibit D), it states David
2 Davis handed him a piece of paper which shows false detainment. Officer
3 Hobbs insisted on photo identification. Officer Hobbs then removed David
4 Davis from the vehicle, placed him in handcuffs, and placed him in the back
5 of his police car. While David Davis was detained in the vehicle, he had an
6 asthma attack. While David Davis was having his asthma attack, the officer
7 from the previous night at the gas station, Sgt. Celli, pulled up. After
8 Sgt. Celli got out of his car, Officer Hobbs pulled David Davis out of his
9 vehicle; while he was still in handcuffs, onto his stomach, and placed his
10 knee into David Davis' back. While David Davis was being detained Officer
11 Hardisty approached Page Gearhart-Davis and asked her for her drivers
12 license, registration, and insurance. Page Gearhart-Davis heard David Davis
13 belling, coughing, and saying he could not breath. Officer Hardisty walked
14 back to where Officer Hobbs and Sgt. Celli were and came back shortly and
15 told Page Gearhart-Davis that everything was alright, that David Davis was
16 having an asthma attack, and that an ambulance was on it's way. The
17 handcuffs were removed minutes before the ambulance arrived. Once David
18 Davis was put into the back of the ambulance to be administered an albuterhal
19 treatment before being sent to the hospital, Sgt. Celli approached the back
20 of the ambulance. At that point, David Davis refused to ride along in the
21 ambulance fearing for his life. David Davis and Page Gearhart-Davis' vehicle
22 was towed due to non-payment of Page Gearhart-Davis' driver license renewal.
23 Page Gearhart-Davis was issued a ticket for driving without a license and
24 turning without using a signal light (Exhibit E). Later in court, the
25 turning without a signal light was dismissed (Exhibit F). David Davis was
26 issued a ticket for not wearing his seatbelt, in which, Officer Hobbs forged

1 David Davis' signature (Exhibit G). Later in court, the ticket for not
2 wearing a seat belt was suspended (Exhibit H).

3 4. After David Davis and Page Gearhart-Davis received these three tickets on
4 the same evening shift, with the same sergeant, Sgt. Celli on command, three
5 more tickets (Exhibit I and J [last ticket is on file with the court because
6 it was a fix-it ticket that was signed by a Lake Co. Sheriff]) were given on
7 this same shift to David Davis and Page Gearhart-Davis under the direction of
8 Sgt. Celli. At every single stop that was made Sgt. Celli was always present
9 or called out to the scene, showing a pattern of constant harassment, which
10 left David Davis and Page Gearhart-Davis in fear to leave their home during
11 Sgt. Celli's evening shift.

12 5. On December 27, 2006, David Davis and Page Gearhart-Davis observed Sgt.
13 Celli and Officer Labbe parked at the intersection of Lakeshore and Olympic.
14 As David Davis and Page Gearhart-Davis turned at the intersection of Olympic
15 and Lakeshore, David Davis and Page Gearhart-Davis observed Officer Labbe and
16 Sgt. Celli pull out and were two cars behind them. As David Davis and Page
17 Gearhart-Davis turned onto Pomo Street Officer Labbe and Sgt. Celli got
18 directly behind David Davis and Page Gearhart-Davis' vehicle and pulled them
19 over. Officer Labbe approached the driver's side of Page Gearhart-Davis and
20 Sgt. Celli approached the passenger side of David Davis. Sgt. Celli stood at
21 David Davis' side with his hand on his gun. Page Gearhart-Davis asked
22 Officer Labbe what they were pulled over for. Officer Labbe said for not
23 using a turn signal and for the ball hitch obstructing the license plate.
24 Page Gearhart-Davis gave Officer Labbe her driver license, insurance, and
25 registration (Exhibit K-M). While Officer Labbe went back to his vehicle
26 Sgt. Celli remained on David Davis' side with his hand on his gun. When

1 Officer Labbe returned, he gave Page Gearhart-Davis a ticket alleging
2 obstruction of license plate, expired registration, which had just expired on
3 December 22, and a non-operative tale light.

4 6. The following day, David Davis and Page Gearhart-Davis received a phone
5 call from another resident of Clear Lake, Teresa Stacey. Teresa Stacey
6 informed Page Gearhart-Davis she had heard a conversation at the police
7 station between Officer Labbe and Capt. Ron Larsen in regards to the incident
8 from the night before (Exhibit N).

9 7. During the course of August 2006 to December 2006 David Davis and Page
10 Gearhart-Davis, along with other witnesses and neighbors, observed Sgt. Celli
11 constantly riding past David Davis and Page Gearhart-Davis' home. On one
12 occasion Sgt. Celli came to David Davis and Page Gearhart-Davis' home,
13 shining lights into their windows, and alleged they had received a 911 phone
14 call from David Davis and Page-Gearhart-Davis' home (on video). Later when
15 Page Gearhart-Davis called the Lake County Sheriff's dispatch, which is where
16 the officer Sgt. Celli was with said the 911 call was dispatched from, they
17 had no record of a 911 call from the landline at David Davis and Page
18 Gearhart-Davis' home.

19 8. After David Davis and Page Gearhart-Davis' second encounter with the
20 police of August 3, David Davis and Page Gearhart-Davis organized monthly
21 meetings with the community of Clear Lake regarding police misconduct
22 (Exhibit O), which later, the Department of Justice also became involved.
23 Current and past employees within the Clearlake Police Department have also
24 come forward regarding misconduct and unlawful acts within the department.
25 While Judy Thein; now mayor of Clear Lake, was running for office one of her
26 main platforms was getting rid of the 'good old boys' (Exhibit P).

1 9. Violation of Civil Rights under the Conspiracy Against Rights of Citizens,
2 18 U.S.C. § 241

3 Sgt. Celli and other Clear Lake Police Officers conspired under the direct
4 supervision of Sgt. Celli to injure, oppress, threaten, and intimidate David
5 Davis and Page Gearhart-Davis. The pattern of harassment, which only occurred
6 on Sgt. Celli's shift, at which each encounter Sgt. Celli was present, caused
7 David Davis and Page Gearhart-Davis to feel threatened and intimidated by
8 Clearlake Police officers. David Davis and Page Gearhart-Davis were
9 oppressed and were fearful to leave their home during Sgt. Celli's shift.

10 10. Violation of Civil Rights under the Deprivation of Rights Under Color of
11 Law, 18 U.S.C. § 242

12 Sgt. Celli and other Clear Lake Police Officers under color of law willfully
13 subjected David Davis and Page Gearhart-Davis to the deprivation of their
14 rights and privileges secured and protected by the Constitution, and to
15 punishments, pains, and penalties by reason of David Davis and Page Gearhart-
16 Davis' color and race. On August 2-06, Sgt. Celli and Officer Miller
17 approached and harassed David Davis and Page Gearhart-Davis only because of
18 their color and race. The following evening Officer Hobbs, under the
19 direction of Sgt. Celli, continued with such harassment of David Davis and
20 Page Gearhart-Davis. Officer Hobbs also falsely detained David Davis after
21 he showed him his only form of identification, his Interim Driver License,
22 since his license was recently renewed. Officer Hobbs used excessive force
23 upon David Davis when he pulled him out of the back of his police car while
24 in hand cuffs, onto his stomach, and putting his knee into David Davis' back,
25 while David Davis was having an asthma attack. Officer Hobbs forged David
26 Davis signature to the ticket he gave David Davis and then fabricated a

1 report about the incident, which later was signed by Sgt. Celli.

2 11. Violation of Civil Rights under the Law Enforcement Misconduct Statute, 42

3 U.S.C. § 14141

4 David Davis and Page Gearhart-Davis were living in Clear Lake for over a year
5 and never encountered any form of harassment until 8-2-06. The pattern of
6 Sgt. Celli's excessive harassment shows his intentions were completely
7 directed to threaten and intimidate David Davis and Page Gearhart-Davis. The
8 harassment David Davis and Page Gearhart-Davis experienced did not come to a
9 stop until a representative from the Department of Justice became involved
10 and spoke with the interim Chief of Police regarding the Clearlake Police
11 Officers' misconduct.

12 12. Violation of Civil Rights under the Civil Action For Deprivation of

13 Rights, 42 U.S.C. § 1983

14 Each Clear Lake Police Officer involved in this misconduct should be held
15 responsible for their actions and involvement in which this complaint clearly
16 points out the harassment of these officers on Sgt. Celli's shift.

17 13. Violation of Civil Rights under the Conspiracies to Interfere With Civil

18 Rights, 42 U.S.C. § 1985

19 After being harassed numerous times on Sgt. Celli's night shift, David Davis
20 and Page Gearhart-Davis were intimidated and felt in fear to leave there
21 home. After David Davis and Page Gearhart-Davis filed complaints for some
22 sort of relief, David Davis and Page Gearhart-Davis found it only made matters
23 worse, Clear Lake Police Officers retaliated against complaints filed about
24 their misconduct.

25 14. Violation of the United States Constitution, Forth Amendment

26 David Davis and Page Gearhart-Davis were approached by Officer Miller and

1 Sgt. Celli on 8-2-06 and unlawfully questioned while David Davis and Page
2 Gearhart-Davis were pumping gas into their vehicle. The following evening of
3 8-3-06 Officer Hobbs unreasonably searched David Davis after falsely
4 detaining him. Officer Hardisty unreasonably searched Page Gearhart-Davis
5 after asking her to leave her vehicle so it could be towed.

6 15. Violation of the United States Constitution, Fourteenth Amendment

7 David Davis and Page Gearhart-Davis were deprived their liberty to leave
8 their home during Sgt. Celli's shift because of all the undue harassment
9 which always occurred during his evening shift. All the harassment David
10 Davis and Page Gearhart-Davis received from Sgt. Celli and other officers on
11 his shift started in August-06 and ended in December-06, only after a
12 representative from the Department of Justice spoke with the Interim Chief of
13 Police about his involvement with what was going on. Because of the
14 excessive force used by Officer Hobbs on 8-3-06 on David Davis, David Davis
15 and Page Gearhart-Davis were in fear of their lives every time after they
16 were stopped by Clear Lake Police Officers.

17 16. Use of Excessive Force, False Detainment, Forged Documents

18 Clearlake Police Department officers used excessive force when falsely
19 detaining David Davis in violation of the Forth and Fourteenth Amendments to
20 the United States Constitution. Clearlake Police Department Officers have
21 used racial epithets or racially insensitive language directed against David
22 Davis and Page Gearhart-Davis. Complaints filed against the Clearlake Police
23 Department by David Davis and Page Gearhart-Davis have resulted in no
24 discipline being imposed against any Clearlake Police Officer.

25 17. Failure to Investigate Complaints Properly

26 The Clearlake Police Department gives greater weight to the statements of its

1 police officers, while discounting statements of witnesses for the complaint,
2 does not fully collect all evidence during its investigations, and does not
3 consider an officer's prior complaint history in its investigation. Clear
4 Lake Police Officers are being hired and promoted without the proper
5 qualifications or requirements and training.

6 18. Failure to Supervise Officers Adequately

7 The Clearlake Police Department does not monitor complaints filed against its
8 officers as a means of detecting problems before they occur. Clearlake
9 Police Officers with complaint histories can and have been promoted. Some of
10 Clear Lake's own employees went to the Federal Bureau of Investigation
11 regarding corruption within the Clear Lake Police Department.

12 RELIEF

13 (A) Compensation for punitive damages due to; but not limited to, violation of
14 Civil Rights, violation of Constitutional Rights, racial profiling, false
15 detainment, excessive force, illegal search and seizure, name forgery,
16 falsifying police reports, harassment, stress, and humiliation.

17 (B) Any officers to be found guilty of any civil or criminal charges to be
18 prosecuted.

19 (C) Conduct a full investigation into the Clear Lake Police Department and
20 Employees (past and present).

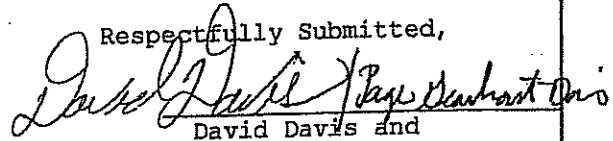
21 (D) Grant such other and additional relief as this Court may deem just and
22 proper.

23 Trial By Jury

24 Plaintiff, David Davis and Page Gearhart-Davis, request a jury trial pursuant
25 to Rule 38, Section B of The Federal Rules of Civil Procedure.

1 Dated: 8-22-07

Respectfully Submitted,



David Davis and
Page Gearhart-Davis

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